

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20779

(over)

Application 30005 of Daryl Sattui

1111 White Road, St. Helena, CA 94574

filed on September 13, 1991, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

1), 2), & 3) Three Unnamed Streams

Carneros Creek thence

Napa River thence

San Pablo Bay

| 2. Location of point of diversion: | 40-acre subdivision of public land survey or projection thereof | Section * | Township | Range | Base and Meridian |
|---|---|--------------|----------|-------|----------------------|
| By California Coordinate System, Zone 2 | | | | | |
| 1) DIVERSION TO OFFSTREAM STORAGE North 227,900 feet and East 1,891,550 feet | NW $\frac{1}{4}$ of SE $\frac{1}{4}$ | 11 | 5N | 5W | MD |
| OFFSTREAM STORAGE Unnamed Reservoir within | NW $\frac{1}{4}$ of SE $\frac{1}{4}$ | 11 | 5N | 5W | MD |
| 2) STORAGE AND REDIVERSION, Reservoir No. 2 North 228,850 feet and East 1,890,950 feet | SW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD |
| 3) STORAGE AND REDIVERSION, Reservoir No. 3 North 229,800 feet and East 1,890,750 feet | SW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD |

County of Napa

*projected

| 3. Purpose of use: | 4. Place of use: | Section * | Township | Range | Base and Meridian | Acres |
|--------------------|---|--------------|----------|-------|----------------------|-------|
| Fire Protection | | | | | | |
| Recreation | | | | | | |
| Stockwatering | Offstream Reservoir within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ | 11 | 5N | 5W | MD | |
| | Reservoir No. 2 within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | |
| | Reservoir No. 3 within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | |
| Frost Protection | | | | | | |
| Irrigation | SE $\frac{1}{4}$ of NE $\frac{1}{4}$ | 2 | 5N | 5W | MD | 2 |
| | NE $\frac{1}{4}$ of SE $\frac{1}{4}$ | 2 | 5N | 5W | MD | 20 |
| | SE $\frac{1}{4}$ of SE $\frac{1}{4}$ | 2 | 5N | 5W | MD | 10 |
| | SW $\frac{1}{4}$ of SE $\frac{1}{4}$ | 2 | 5N | 5W | MD | 10 |
| | NW $\frac{1}{4}$ of SW $\frac{1}{4}$ | 1 | 5N | 5W | MD | 3 |
| | SW $\frac{1}{4}$ of SW $\frac{1}{4}$ | 1 | 5N | 5W | MD | 5 |
| | NW $\frac{1}{4}$ of NW $\frac{1}{4}$ | 12 | 5N | 5W | MD | 5 |
| | SW $\frac{1}{4}$ of NW $\frac{1}{4}$ | 12 | 5N | 5W | MD | 10 |
| | NW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 25 |
| | NE $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 10 |
| | SE $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 10 |
| | SW $\frac{1}{4}$ of NE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 30 |
| | NE $\frac{1}{4}$ of SE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 25 |
| | NW $\frac{1}{4}$ of SE $\frac{1}{4}$ | 11 | 5N | 5W | MD | 25 |
| | NE $\frac{1}{4}$ of NW $\frac{1}{4}$ | 11 | 5N | 5W | MD | 10 |
| | SE $\frac{1}{4}$ of NW $\frac{1}{4}$ | 11 | 5N | 5W | MD | 15 |
| | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 11 | 5N | 5W | MD | 5 |
| | | | | | TOTAL = | 220 |

*projected

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 147 acre-feet per annum to be collected from October 1 of each year to May 15 of the succeeding year as follows: 49 acre-feet per annum in Unnamed Offstream Reservoir, 49 acre-feet per annum in Reservoir No. 2, and 49 acre-feet per annum in Reservoir No. 3. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to off stream storage shall not exceed 1 cubic-foot per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1998. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and properly maintain in the reservoirs staff gages, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

Permittee shall allow designated representatives of Heublein, Inc. - BV8, W. Andrew Beckstoffer, Rene Di Rosa, Sterling Vineyards, Regency Vineyard, and Chardonnay Vineyards, Ltd., reasonable access to the reservoir and diversion facilities for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)
(0100047)

17. Whenever the prior storage rights of Heublein, Inc. - BV8 (under License 12582 issued pursuant to Application 24345A), the prior storage rights of W. Andrew Beckstoffer (under Licenses 11580 and 11581 issued pursuant to Applications 24222A and 24222B), the prior storage rights of Rene Di Rosa and Sterling Vineyards (under License 12211 issued pursuant to Application 20357), the

prior storage rights of Regency Vineyard (under Permit 18304A issued pursuant to Application 25294A), and the prior storage rights of Chardonnay Vineyards, Ltd. (under Permit 18303 issued pursuant to Application 25293), are not satisfied by May 15 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir(s) below the previous October 1 staff gage reading unless permittee has withdrawn water from the reservoirs for consumptive purposes since October 1.

(0000051)

18. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

19. The total quantity of water diverted under this permit, together with that diverted under the permit issued pursuant to Application 30006, shall not exceed 147 acre-feet per annum.

(0000114)

20. This permit is specifically subject to the prior right of Heublein, Inc. - BV8 under appropriation issued pursuant to Application 24345A, W. Andrew Beckstoffer under appropriation issued pursuant to Applications 24222A and 24222B, Rene Di Rosa and Sterling Vineyards under appropriation issued pursuant to Application 20357, Regency Vineyard under appropriation issued pursuant to Application 25294A, and Chardonnay Vineyard, Ltd. under appropriation issued pursuant to Application 25293.

(0160800)

(000T001)

21. Permittee shall, prior to any grading, obtain the required Napa County grading permit. Prior to any grading on slopes greater than 5%, permittee shall submit to the Chief of the Division of Water Rights, State Water Resources Control Board, an Erosion Control Plan approved by the County of Napa.

(0400500)

22. Permittee shall, for the protection of oak woodland, plant three oak trees for every one oak tree removed. Trees may be planted in groves in order to maximize wildlife benefits and shall be native to Napa County. The tree species and planting scheme shall be approved by the Department of Fish and Game prior to planting. Permittee shall submit to the Chief of the Division of Water Rights a copy of the approved planting scheme.

(0400500)

23. For the protection of riparian habitat, permittee shall retain the riparian vegetation. Pursuant to Napa County Ordinance 991, no vegetation shall be removed within the stream zone except that which is necessary to construct diversion structures. All riparian corridors shall be excluded from the area to be developed (i.e. vineyards).

(0400500)

24. The five archeological sites identified in the document An Archaeological Survey For The Henry Ranch Property, Carneros Valley, Napa County, California (dated March 24, 1993), and listed individually as; Child's Grave, Ranch Complex, Herb's BRM Site, The Dead Pigeon Site, and the Springside BRM Site; shall be excluded from the project place of use and shall otherwise not be subject to any

impacts related to, or resulting from, the proposed water diversion, storage, or use. If project developments are to occur in the vicinity of the Child's Grave or Herb's BRM Site, these sites shall be protected by fencing (three-strand barbed wire stock fencing with flagging) to prevent inadvertent encroachment during construction activities and/or subsequent vineyard maintenance. Future development at the locations of these five cultural resources may be allowed following a significance determination and the completion of appropriate mitigation measures approved by the Chief of the Division of Water Rights. (0380500)

25. If any previously unrecorded cultural resources are discovered during project activities authorized subsequent to the issuance of this permit, such activities shall cease within 100 feet of the discovery and the Chief of the Division of Water Rights shall be notified as soon as possible. The significance of the find shall be evaluated by a qualified archeologist and any recommended mitigation measures, as approved by the Chief of the Division of Water Rights, shall be implemented prior to the resumption of project activities in the site vicinity. (0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

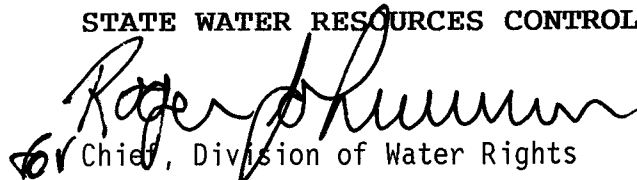
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 8 1995

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights